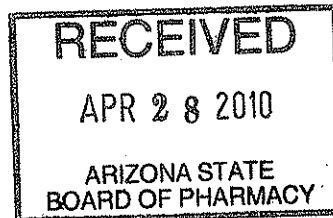


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7 Attorneys for the Arizona State Board of Pharmacy

8
9 **BEFORE THE ARIZONA STATE BOARD OF PHARMACY**

10 In the Matter of

11 **GREGG CLUFF,**

12 Holder of License No. S010248
For the Practice of Pharmacy
13 In the State of Arizona

Board Case No. 10-0063-PHR

**CONSENT AGREEMENT
AND ORDER OF PROBATION**

14
15 In the interest of a prompt and judicious settlement of this case, consistent with the
16 public interest, statutory requirements and the responsibilities of the Arizona State Board
17 of Pharmacy ("Board") under A.R.S. § 32-1901, *et. seq.*, Gregg Cluff ("Respondent"),
18 holder of Pharmacist License Number S010248 in the State of Arizona, and the Board
19 enter into the following Recitals, Findings of Fact, Conclusions of Law and Order
20 ("Consent Agreement") as a final disposition of this matter.

21 **RECITALS**

22 1. Respondent has read and understands this Consent Agreement and has had
23 the opportunity to discuss this Consent Agreement with an attorney, or has waived the
24 opportunity to discuss this Consent Agreement with an attorney.
25
26

1 2. Respondent understands that he has a right to a public administrative
2 hearing concerning the above-captioned matter, at which hearing he could present
3 evidence and cross examine witnesses. By entering into this Consent Agreement,
4 Respondent knowingly and voluntarily relinquishes all right to such an administrative
5 hearing, as well as rights of rehearing, review, reconsideration, appeal, judicial review or
6 any other administrative and/or judicial action, concerning the matters set forth herein.

7 3. Respondent affirmatively agrees that this Consent Agreement shall be
8 irrevocable.

9 4. Respondent understands that this Consent Agreement or any part of the
10 agreement may be considered in any future disciplinary action by the Board against him.

11 5. Respondent understands this Consent Agreement deals with Board
12 Complaint No. 3770 involving allegations of unprofessional conduct against Respondent.
13 The investigation into these allegations against Respondent shall be concluded upon the
14 Board's adoption of this Consent Agreement.

15 6. Respondent understands that this Consent Agreement does not constitute a
16 dismissal or resolution of any other matters currently pending before the Board, if any,
17 and does not constitute any waiver, express or implied, of the Board's statutory authority
18 or jurisdiction regarding any other pending or future investigation, action or proceeding.

19 7. Respondent also understands that acceptance of this Consent Agreement
20 does not preclude any other agency, subdivision, or officer of this State from instituting
21 any other civil or criminal proceedings with respect to the conduct that is the subject of
22 this Consent Agreement.

23 8. Respondent acknowledges and agrees that, upon signing this Consent
24 Agreement and returning this document to the Board's Executive Director, he may not
25 revoke his acceptance of the Consent Agreement or make any modifications to the
26

1 document regardless of whether the Consent Agreement has been signed by the
2 Executive Director. Any modification to this original document is ineffective and void
3 unless mutually agreed by the parties in writing.

4 9. This Consent Agreement is subject to the approval of the Board and is
5 effective only when accepted by the Board and signed by the Executive Director. In the
6 event that the Board does not approve this Consent Agreement, it is withdrawn and shall
7 be of no evidentiary value and shall not be relied upon nor introduced in any action by
8 any party, except that the parties agree that should the Board reject this Consent
9 Agreement and this case proceeds to hearing, Respondent shall assert no claim that the
10 Board was prejudiced by its review and discussion of this document or any records
11 relating thereto.

12 10. If a court of competent jurisdiction rules that any part of this Consent
13 Agreement is void or otherwise unenforceable, the remainder of the Consent Agreement
14 shall remain in full force and effect.

15 11. Respondent understands that this Consent Agreement is a public record that
16 may be publicly disseminated as a formal action of the Board and may be reported as
17 required by law to the National Practitioner Data Bank and the Healthcare Integrity and
18 Protection Data Bank.

19 12. Respondent understands that any violation of this Consent Agreement
20 constitutes unprofessional conduct and may result in disciplinary action. A.R.S. §§ 32-
21 1901.01(B)(20), -1927.(A)(1).

22 13. Respondent agrees that the Board will adopt the following Findings of Fact,
23 Conclusions of Law and Order.

24 ...

25 ...

1 ACCEPTED AND AGREED BY RESPONDENT

2
3 Gregg Cluff

Dated: 4/26/10

4 Subscribed and sworn to before me in the County of Maricopa, State of Arizona,
5 this 26 day of April, 2010, by Gregg Cluff.



NOTARY PUBLIC

My Commission expires: 3/4/2013

9
10 FINDINGS OF FACT

11 1. The Board is the duly constituted authority for licensing and regulating the
12 practice of pharmacy in the State of Arizona.

13 2. Respondent is the holder of license number S010248 to practice as a
14 pharmacist in the State of Arizona.

15 3. In January 2010, Respondent was convicted in Apache County Superior
16 Court Case Number CR2009226 of Attempted Sexual Conduct with a Minor, a class
17 three felony. Respondent was placed on lifetime probation.

18 CONCLUSIONS OF LAW

19 1. The Board possesses jurisdiction over the subject matter and over
20 Respondent pursuant to A.R.S. § 32-1901 *et seq.*

21 2. Pursuant to A.R.S. § 32-1927(A)(1), the Board may discipline a pharmacist
22 who has engaged in unprofessional conduct.

23 3. Respondent's practice and conduct, as described in the Findings of Fact,
24 constitutes unprofessional conduct pursuant to A.R.S. § 32-1901.01(B)(8) (Committing a
25 felony, whether or not involving moral turpitude, or a misdemeanor involving moral
26

1 turpitude or any drug related offense. In either case, conviction by a court of competent
2 jurisdiction or a plea of no contest is conclusive evidence of the commission).

3 **ORDER**

4 Based upon the above Findings of Fact and Conclusions of Law,

5 IT IS HEREBY ORDERED THAT License No. S010248, which was issued to
6 Gregg Cluff to practice as a pharmacist in the State of Arizona, is hereby placed on
7 **PROBATION.**

8 1. Respondent's probation is subject to the following conditions:

9 A. Respondent's probation shall extend for the entire term of his
10 probation in Case Number CR2009226 (the "Criminal Probation"). Respondent
11 shall comply with all terms and conditions of his Criminal Probation. Respondent
12 agrees that any violation of the Criminal Probation constitutes a violation of this
13 Consent Agreement. Respondent must report any violation of the Criminal
14 Probation to the Board within five (5) days of its occurrence.

15 B. If Respondent's Criminal Probation is ever completely terminated,
16 Respondent shall request in writing that the Board terminate the probation
17 imposed by this Consent Agreement. Respondent's request for termination will be
18 considered at a regularly scheduled Board meeting. Respondent is required to
19 personally appear at that Board meeting. Respondent's probationary period under
20 this Consent Agreement will continue until Respondent's request for termination
21 is received and the Board terminates the probation.

22 C. Within 10 days of the effective date of this Consent Agreement,
23 Respondent shall sign a new five (5) year contract with PAPA. Respondent shall
24 participate in PAPA, successfully complete the full term of the new PAPA
25 contract, and abide by each and every requirement of the new PAPA contract.
26

1 D. Respondent shall furnish all pharmacy employers with a copy of this
2 Consent Agreement. Respondent shall ensure that all pharmacy employers submit
3 to the Board a written acknowledgement that they have received a copy of this
4 Consent Agreement within ten (10) days of entering into an employment
5 relationship with Respondent.

6 E. Respondent shall not serve as a preceptor pharmacist or pharmacist
7 in charge.

8 F. Respondent shall advise the Board within ten (10) days of any
9 change in pharmacy employment status.

10 2. Within five (5) years from the effective date of this Consent Agreement,
11 Respondent shall complete 400 hours of community service approved by Board staff.
12 Respondent shall ensure that all entities to which he provides community service verify
13 in writing to the Board the number of hours completed within 30 days of completing the
14 community service.

15 3. Respondent shall pay all necessary fees and complete all continuing
16 education requirements throughout the term of his probation.

17 4. Throughout the term of Respondent's probation, Respondent shall
18 personally appear before the Board when requested to do so by the Board or Board staff.

19 5. Respondent shall furnish the Board with a list of all jurisdictions in which
20 he maintains or has maintained licensure in the profession of pharmacy along with the
21 registration numbers of said licenses.

22 6. Respondent shall obey all federal and state laws and rules governing the
23 practice of pharmacy.

24 7. Respondent shall bear all costs relating to the probation terms required in
25 this Consent Agreement.
26

8. Respondent shall execute all appropriate release of information forms to permit PAPA to communicate directly with the Board regarding Respondent's treatment.

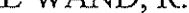
9. If Respondent violates this Order in any way or fails to fulfill the requirements of this Order, the Board, after giving the Respondent notice and the opportunity to be heard, may revoke, suspend or take other disciplinary actions against Respondent's license. The issue at such a hearing will be limited solely to whether this Order has been violated.

DATED this 12th day of MAY, 2010.

ARIZONA STATE BOARD OF PHARMACY

(Seal)

By:


HAL WAND, R.Ph.
Executive Director

1 ORIGINAL OF THE FORGOING FILED
this 12 day of May, 2010, with:

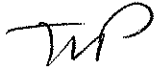
2 Arizona State Board of Pharmacy
3 1700 West Washington, Suite 250
4 Phoenix, Arizona 85007

5 EXECUTED COPY OF THE FOREGOING MAILED
BY FIRST-CLASS and CERTIFIED MAIL
this 12 day of May, 2010, to:

6 Gregg Cluff
7 1650 N. 87th Ter., Unit 23
8 Scottsdale, Arizona 85257
Respondent

9 EXECUTED COPY OF THE FOREGOING MAILED
this 12 day of May, 2010, to:

10
11 Elizabeth A. Campbell
12 Assistant Attorney General
13 1275 W. Washington Street, CIV/LES
Phoenix, Arizona 85007
Attorney for the Board

14 

15 777606